

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the ratemaking implications for Pacific Gas and Electric Company (PG&E) pursuant to the Commission's Alternative Plan for Reorganization under Chapter 11 of the Bankruptcy Code for PG&E, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Company, Case No. 01-30923 DM.

Investigation 02-04-026
(Filed April 22, 2002)

**ASSIGNED COMMISSIONER'S RULING REGARDING
SECOND AMENDED DECLARATION AND COMMENTS
PLUS ADDITIONAL INFORMATION FROM TURN**

1. Summary

Energy Division shall file and serve a Second Amended Declaration, and parties may file and serve comments, consistent with the dates in the attached schedule. The Utility Reform Network (TURN) may file and serve a further explanation of its proposed dedicated rate component (DRC), and address the legality of the DRC, consistent with the date in the attached schedule.

2. Background

On April 15, 2002, the Commission filed with the United States Bankruptcy Court for the Northern California District of California an alternative Plan of Reorganization (POR) for Pacific Gas and Electric Company (PG&E) pursuant to Chapter 11 of the Bankruptcy Code. After further proceedings at the Bankruptcy

Court, the Commission's Disclosure Statement and POR were dated May 17, 2002.

On July 24, 2002, the Energy Division Director filed and served a Declaration (as required by the Scoping Memo and Ruling dated July 17, 2002). The Declaration addressed the ratemaking implications of the Commission's POR, whether or not the resulting rates are just and reasonable, and other matters that need to be decided by the Commission in order to implement the Commission's POR.

On August 22, 2002, TURN filed and served Specific Modifications to the Commission's Alternative Plan (as permitted by Assigned Commissioner's Ruling dated August 14, 2002). Among other things, TURN proposes that the Commission consider use of a DRC as an alternative way to raise \$2 billion of cash (e.g., from the sale of bonds backed by the DRC).

On August 22, 2002, the Commission announced that it had reached agreement with the Official Committee of Unsecured Creditors (Creditors) regarding modifications to the Commission's POR. On August 30, 2002, the Commission and Creditors filed the First Amended POR and Supplemental Disclosure with the Bankruptcy Court.

On September 24, 2002, the Energy Division filed and served an Amended Declaration. On October 1, 2002, TURN filed and served comments on the Amended Declaration. TURN questions the legality of the Commission's POR.

By pleadings dated November 6, 2002, the Commission and Creditors filed the Second Amended POR and Supplemental Disclosure with the Bankruptcy Court.

3. Discussion

The record should reflect the ratemaking implications of the Second Amended POR and Supplemental Disclosures. Specifically, Energy Division should file and serve a Second Amended Declaration that addresses the ratemaking implications of the Second Amended POR, whether or not the resulting rates are just and reasonable, and any other matters that need to be decided by the Commission in order to implement the Second Amended POR.

Energy Division shall file and serve the Second Amended Declaration by the date in the attached schedule. Parties may file comments on the Second Amended Declaration, with comments filed and served by the date in the attached schedule.

TURN recommends that the Commission consider raising several billion dollars of cash through the sale of bonds backed by a DRC. TURN asserts that this is a less costly alternative to the Commission's approach. The Commission, however, needs additional information to reasonably consider TURN's proposal. TURN should file and serve an explanation of its DRC proposal to assist the Commission in that consideration.

For example, TURN should address whether or not it proposes that PG&E be authorized or ordered to establish a separate corporate entity for the purpose of issuing the bonds. TURN should include this and all other relevant information to fully develop and explain its proposal.

Further, TURN asserts that the Commission is prohibited from sponsoring proposals that violate state law. TURN argues that the Commission's POR violates state law by requiring a "Reorganization Agreement" contrary to law. TURN concludes that the Commission lacks authority to offer the amended POR, and that the amended POR is unconfirmable.

TURN seemingly admits, however, that its DRC raises the same legal issues as the Reorganization Agreement. TURN supports its proposal by claiming “if there is sufficient legal authority for its [the Commission’s] approach [which TURN believes there is not], then there is certainly sufficient authority for TURN’s proposed modification to that approach.” (Comments dated October 1, 2002, page 2.)

The Commission needs more information to properly consider the legality of TURN’s DRC proposal. TURN should provide citations to law that authorize the Commission to employ the use of a DRC as contemplated by TURN, and other legal analysis in support of TURN’s proposal.

IT IS RULED that:

1. Energy Division shall file and serve a Second Amended Declaration based on the Second Amended Plan of Reorganization and Supplemental Disclosures dated November 6, 2002 for Pacific Gas and Electric Company (PG&E) jointly sponsored by the Commission and the Official Committee of Unsecured Creditors. The Second Amended Declaration shall be filed and served by the date set forth in Attachment A.

2. Parties may file and serve comments on the Energy Division’s Second Amended Declaration. Comments shall be filed and served by the date set forth in Attachment A.

3. The Utility Reform Network (TURN) may file and serve an explanation of its dedicated rate component (DRC) proposal. The explanation shall be filed and served by the date set forth in Attachment A. The explanation shall state whether or not TURN proposes that PG&E be authorized or ordered to establish a separate corporate entity for the purpose of issuing the bonds, and all other

relevant information to fully develop and explain its proposal. Further, TURN shall address the legality of Commission sponsorship of a DRC, including citations to law that authorize the Commission to employ the use of a DRC as contemplated by TURN, along with any other relevant legal analysis in support of TURN's proposal.

Dated November 15, 2002, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Administrative Law Judge

ATTACHMENT A

**AMENDED SCHEDULE
November 8, 2002**

I.02-04-026

| DATE | EVENT |
|-------------------|--|
| November 20, 2002 | Energy Division files and serves Second Amended Declaration |
| November 27 | Parties file and serve comments on Second Amended Declaration |
| November 27 | TURN files and serves an explanation of its DRC, citations to law authorizing or permitting Commission use of a DRC, and any further support for its DRC |
| November 27 | Revised projected submission date |

(END OF ATTACHMENT A)

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail on those with electronic mail addresses, this day served a true copy of the original attached Assigned Commissioner's Ruling Regarding Second Amended Declaration and Comments Plus Additional Information From TURN on all parties of record in this proceeding or their attorneys of record.

Dated November 15, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.